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TAGS: ECON EINV ECPS EFIN TU  
SUBJECT: U.S. COURT RULING BRINGS HEAVY CASH PENALTY TO UZAN FAMILY

Sensitive But Unclassified. Please handle accordingly.

¶11. (SBU) Summary: On November 21, Motorola won an appeal in a long-standing U.S. fraud case against the Turkish Uzan family, the former owners of the Turkish GSM company Telsim. The U.S. Court of Appeals upheld a \$1 billion award, which the Uzans had appealed claiming they could not afford to pay. If the Uzans now fail to pay, Motorola can request foreign courts to block the family's assets anywhere in the world. While Motorola looks for Uzan assets to seize, the Uzan family continues court and arbitration cases against the GOT and individual bureaucrats, seeking millions of dollars for the allegedly wrongful seizure of its assets in Turkey. End Summary.

¶12. (SBU) Motorola and Nokia lent nearly \$2.5 billion to Telsim during the period 1998-2000 when the company was owned by the Uzan family. In 2001, Telsim defaulted on the loan. In 2004, the Turkish State Deposit Insurance Fund (SDIF) seized Telsim and all Uzan Group companies in an attempt to recoup some of the \$6 billion the state had to put into the Deposit Fund when it took over the Uzans' collapsed Imar Bank. Motorola persistently fought against the Uzans in foreign courts, and won judgments against them in the U.S. and U.K. in 2003. Telsim launched several arbitration cases at the Zurich Chamber of Commerce in 2002, prior to the Turkish Government's seizure of the company. The GOT negotiated settlements with Nokia and Motorola before the company's sale to Vodafone in ¶2005. The SDIF paid \$910 million to Motorola after the sale.

¶13. (SBU) The U.S. Court of Appeals for the Second District upheld a 2006 \$1 billion federal court award to Motorola based on a 2002 fraud suit filed by Motorola and Nokia against the Uzan family. The court rejected the claims made by the Uzans after last year's ruling that they could not afford to pay the amount. The court stated that "the family failed to demonstrate that the award exceeds their ability to pay."

¶14. (SBU) Motorola now has to collect the judgment. If the Uzans fail to pay, then Motorola can seek to block the family's assets anywhere in the world to enforce the judgment, if it can get local court approval. Given that all Uzan family assets in Turkey are under state control, Motorola is unlikely to find any assets here. The Uzans are thought to have investments in Poland, Jordan and Switzerland. Motorola's co-plaintiff in other court cases against the Uzans, Nokia, said in press statements that it would continue to pursue court cases against the Uzans for \$360 million.

¶15. (SBU) While the U.S. court ruling was good news for Motorola, the

Uzans continue to pose major problems for the GOT. They have ongoing \$40 billion arbitration claims against the government for the seizure of their energy companies CEAS and KEPEZ. (Note: The GOT's seizure of CEAS and KEPEZ, based on a 2002 regulation relating to the Electricity Market Law, was the start of a broad operation against the family assets. End Note.) The Uzans also took the GOT to the European Court of Human Rights, claiming the ruling Justice and Development Party (AKP) seized its companies to politically destroy the Genc ("Youth") Party led by Cem Uzan. Turkish law allows individual bureaucrats to be sued in court for decisions they make as government officials, and the Uzans have filed a record number of court cases against the high level bureaucrats who were in charge when their companies were seized. The most recent case, filed on November 19, claimed \$300 million in damages against former Energy Market Regulatory Authority (EMRA) President Yusuf Gunay.

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